

**MINUTES
MONTEREY PARK CITY COUNCIL
SUCCESSOR AGENCY (SA)
SPECIAL MEETING
MAY 31, 2018**

The City Council of the City of Monterey Park held a Special Meeting of the Council in the Council Chamber, located at 320 West Newmark Avenue in the City of Monterey Park, Thursday, May 31, 2018 at 7:00 p.m.

CALL TO ORDER:

Mayor Lam called the meeting to order at 7:02 p.m.

ROLL CALL:

City Clerk Vincent Chang called the roll:

Council Members Present: Peter Chan, Mitchell Ing, Stephen Lam, Hans Liang,
Teresa Real Sebastian

Council Members Absent: None

Also Present: City Manager Ron Bow, Assistant City Attorney Karl Berger, Director of Human Resources and Risk Management Tom Cody, Director of Community and Economic Development Michael Huntley, Director of Management Services Annie Young, Director of Public Works Mark McAvoy, Director of Recreation & Community Services Inez Alvarez, City Clerk Secretary Helena Cho

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

Assistant City Attorney Berger informed the City Council and public about two supplemental staff reports. The Assistant City Attorney Berger requested the City Council to enter into Closed Session prior to the meeting regarding an anticipated litigation regarding the agendized item.

CLOSED SESSION - The City Council adjourned to Closed Session at 7:05 p.m.

Motion: Moved by Council Member Real Sebastian and seconded by Council Member Liang, motion carried by the following vote:

Ayes:	Council Members:	Real Sebastian, Ing, Liang, Chan, Lam
Noes:	Council Members:	None
Absent:	Council Members:	None
Abstain:	Council Members:	None

Action Taken: No reportable action taken in Closed Session.

RECONVENE

The City Council reconvened from Closed Session with all Council Members present at 7:28 p.m.

MISSION STATEMENT

The mission of the City of Monterey Park is to provide excellent services to enhance the quality of life for our entire community

ORAL & WRITTEN COMMUNICATIONS

None.

PUBLIC HEARING

**1-A. AN APPEAL OF THE PLANNING COMMISSION DECISION TO APPROVE A
CONDITIONAL USE PERMIT (CUP-18-02) TO ALLOW THE ESTABLISHMENT
OF A HOSPITAL USE ON PROPERTY LOCATED AT 1977 SATURN STREET
(CONTINUED FROM MAY 16, 2018)**

Executive Summary from the May 31, 2018 Staff Report

This meeting is a continued public hearing from May 16, 2018. The full public hearing packet is attached to the staff report.

Please note that the public hearing packet was supplemented since May 16, 2018. All supplemental materials are identified on page 10 of the staff report.

Also note that the City is making all documents available that were disclosed pursuant to a public records request dated May 14, 2018. Those may be downloaded from the City's website (www.montereypark.ca.gov) and are also available on flashdrive from the City Clerk's office (there is a small fee to recover the cost of the flashdrive).

All documents related to this item are available for review (and copying) in the City Clerk's office. Please contact the City Clerk's office to obtain copies of the materials. You may also appear in person to review any documents. The City Clerk's office does ask that you make an appointment to do so (though that is not required) to facilitate your review of the record (it is quite voluminous).

Executive Summary from the May 16, 2018 Staff Report

On March 27, 2018, the Planning Commission adopted Resolution No. 06-18 approving CUP-18-02 (the "Project"). The Project allows a hospital use at 1977 Saturn Street. On April 4, 2018, the City Clerk's office received a timely written appeal of the Project approval (the "Appeal"). The Appeal is signed by six individuals who assert that the Planning Commission improperly approved the Project. Specifically, the Appeal states that the "the reviewing city official and body made errors in their review, consideration, application and final decision...." It then lists several sections of the Monterey Park Municipal Code ("MPMC") along with mention of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines. A copy of the Appeal is included as an attachment to the staff report.

The City Council's consideration of the Appeal must be made in compliance with MPMC § 1.10.070 which states that

“[a]ppeals will be considered at a noticed public hearing. Evidence submitted at the hearing may include, without limitation, witness testimony, documents, or other similar evidence. Formal rules of evidence do not apply. Any evidence proffered, however, must be relevant and material to the issues upon appeal. All actions to affirm, reverse, or modify in whole or part any decision must be in writing and state the findings for the affirmation, reversal, or modification. Unless otherwise provided by law, any decision by the city council will be final and conclusive. The city council's decision must include notification that pursuant to Code of Civil Procedure Section 1094.6, any action to review the decision must commence not later than the ninetieth day after the date the order is issued.”

As stated by the MPMC, the City Council may “affirm, reverse, or modify in whole or part any decision” made by the Planning Commission.

CEQA (California Environmental Quality Act):

On March 27, 2018, the Planning Commission adopted Resolution No. 06-18 and found that CUP-18-02 is categorically exempt from additional environmental review pursuant to CEQA Guidelines § 15301 (Class 1 – Existing Facilities). The City Council may rely upon that determination if it upholds or modifies the Planning Commission decision.

Overturning the Planning Commission decision would constitute a denial of the project. Denying the Project is exempt from additional environmental review pursuant to CEQA Guidelines § 15270.

Executive Summary for Supplemental Staff Report No. 1

Late yesterday afternoon, staff identified Measure D that was approved by voters in 1998. Measure D adopted Ordinance No. 1933 which added Chapter 21.14 to the Monterey Park Municipal Code (“MPMC”) and established regulations for the “Office Professional” or “O-P” zone. Measure D does not delegate authority to the City Council to make any changes to MPMC Chapter 21.14. A copy of Measure D is attached to the staff report.

Measure D does not allow hospital uses within the O-P zone. Indeed, the closest land use category to a “hospital” (as otherwise defined by the MPMC) is a land use category listed as “[m]edical equipment and supplies, sales and service” which is allowed as a matter of right within the O-P zone. The City Attorney’s office does not believe that this description equates to the type of services proposed by OneLegacy. Moreover, Measure D does not list any type of medical use as conditional, i.e., a land use for which the City could issue a conditional use permit (“CUP”).

In 2013, the City Council adopted Ordinance No. 2097. That Ordinance made substantial revisions to the MPMC's land use regulations including renumbering and substantially revising MPMC Chapter 21.14 (as added by Measure D). In accordance with the well-established "equal dignities" rule generally applicable to legislation, however, MPMC Chapter 21.14 cannot be amended, repealed or suspended by an action of the City Council; it can only be changed by a voter approved ballot measure. Our office has not identified a voter approved ballot measure after 1998 that amended MPMC Chapter 21.14.

The City processed Onelegacy's application based upon the published version of the MPMC which includes the changes purportedly implemented by Ordinance No. 2097. It appears, however, that Onelegacy's application as to its proposed hospital use should have been rejected by the City from the outset since it is prohibited in the O-P zone (see, MPMC § 2.14.030: "[a]ll uses not permitted in this chapter shall be prohibited"). While most of Onelegacy's proposed office uses are permitted within the O-P zone by right, the clinical part of the operations (i.e., the hospital use which was proposed for a CUP) is not.

Consequently, it is recommended that the City Council uphold the appeal and reverse the Planning Commission decision. A draft resolution memorializing such a decision is attached to the staff report for consideration.

Please note that most of Onelegacy's proposed project includes "[a]dministrative and professional offices" that are allowed by right pursuant to MPMC § 21.14.040 (as approved by Measure D). Accordingly, Onelegacy could still move the administrative office part of its operations to 1977 Saturn. That, of course, is a business decision.

On a go forward basis, the City Attorney's office will be advising the City Clerk's office regarding how to identify those sections of the MPMC – and the General Plan – that cannot be amended without voter approval.

Executive Summary for Supplemental Staff Report No. 2 from City Manager Bow

After reading the City Attorney's Supplemental Staff Report, it seems prudent to provide some additional thoughts from a management perspective. In short, the buck stops with me and it is important for me to provide some insight.

First, please know that Councilmember Real Sebastian alerted me to the existence of Measure D yesterday morning. In preparing for this matter, she found the ballot measure and wanted to make sure that I was aware of its existence. As a result, I asked staff to double-check the City's ballot measures to ensure that the City Council, appellant, applicant, and the public were provided accurate information. Once Measure D was located, staff alerted the Assistant City Attorney regarding the matter which resulted in tonight's revised recommended actions.

Second, I want to assure the Council that we will be working on internal policies to help ensure that the Monterey Park Municipal Code and the Monterey Park General Plan properly reflect language approved by the voters. To say the least, this matter is embarrassing. While it is easy to point out that some of these errors occurred more than 20 years ago, that does not mean that they need to be perpetuated.

Finally, know that the City is comprised of many hard-working men and women who serve the public on a day-to-day basis. Like all of us, they sometimes make mistakes. Regrettably, inadvertent mistakes from the past affected this particular project and caused public consternation regarding the City's processes. The City staff and I take our responsibilities very seriously and strive to provide the best possible public service. We can, of course, always do better.

Public Speakers:

- Matthew Nelson, with the Law Firm of Gresham Savage Nolan & Tilden representing the applicant, OneLegacy, spoke about the alleged injustice he believed OneLegacy faced. He asked the City Council to move forward and approve the OneLegacy project as a general research facility or a service business instead of a hospital. Speakers Cynthia Perley, Elvia De LaRiva, and Prasad Garimella gave their speaking time to Matthew Nelson.
- Evelyn Moreno, appellant, spoke about the purported injustice the Monterey Park residents faced. She stated that the Planning Commission had no background or knowledge to approve the Conditional Use Permit (CUP) and stated the negligence of the City in regards to the OneLegacy project.
- Nancy Arcuri spoke about the traffic issues that OneLegacy will bring into the City.
- Theresa Dampf spoke about her experiences dealing with clinically death individuals. She wanted to raise public awareness on OneLegacy's alleged deceptive practices, which contribute to adverse affect on public health, safety, and general welfare. Speakers Mei Yee, Albert Estrada, and Ray Woo gave their speaking time to Theresa Dampf.
- Maychelle Yee presented a petition containing over 300 signatures to demonstrate how important this appeal is to many of the residents. She claimed that OneLegacy is not a research facility but a mortuary, which is not permitted in the office professional zone.
- Dave Jones expressed his opinion about the ex parte communications between OneLegacy and multiple city officials going back to last year which characterized residents as the opposition.

- Ron Heim announced that he works for a major brokerage house that manages the proposed location for the OneLegacy project. He stated that the building is approximately 2000 square feet and this proposed project will potentially lessen the parking demand for the site. He said that OneLegacy has the resources to fix and improve the building to make it a state of the art building.
- Grace Chu concluded that when she first read the report from the Planning Commission she determined that the OneLegacy project is not a hospital. She declared that the applicant admitted that it is not a hospital. However, the City has misled and continued working with them for several months, resulting in wasted resources, time, money, and energy. She said she is afraid that the City of Monterey Park may be made a defendant in a lawsuit.
- George Plascencia stated that he arrived to Monterey Park in 1967 as a toddler, and resides near McCaslin Park. He expressed concerns regarding traffic issues and how the OneLegacy project may be an undue burden on his family.
- Tom Mone, CEO of OneLegacy, expressed his disappointment in the city's misunderstanding of its own general codes and zoning codes, which have impeded their ability to move forward with the project. Mr. Mone mentioned that there has been a great deal of concerns about conflicts of interest, and there have been no opportunities for any quid pro quo to anyone within the City staff, the City Council, or the Planning Commission. He explained that OneLegacy in its routine work stores no hazardous materials at their present operations, and would not store any at the facility on Saturn. Furthermore, declared that OneLegacy's anticipated traffic volume is less than one quarter of the traffic that was historically going to the prior tenant. He spoke about the community outreach conducted by OneLegacy. Mr. Mone stated that OneLegacy did not intend to seek a hospital use of the zone, they intended to approach it as they did with their Redlands facility, which allowed their facility to exist within the existing commercial zone. He announced that it was not their choice to label OneLegacy as a "Hospital", but that was requested to them by the City.
- Maychelle Yee talked about the unethical behaviors and the CEQA requirements for a hospital use. Speaker Garry Hart gave his speaking time to Maychelle Yee.

Discussion: Council Member Ing directed staff to ensure that materials provided to a City Council member should be in the same form for all Council Members.

Action Taken: The City Council (1) confirmed public noticing by the City Clerk; (2) declared any conflicts; (3) declared any *ex parte* contacts, Council Member Real Sebastian stated that a resident by the name of Barbra contacted her to meet with someone from the applicant and she declined. Council Member Ing stated that Patrick Petre, Chief Executive Officer of Garfield Medical Center, contact him via phone and ask if he would like to meet Doctor Sim, from Allied Physicians of Alhambra, and in that meeting he was introduced to Tom Mone, from OneLegacy, in where Council Member Ing stated he does not share his position and he was only there to gather facts. Council Member Liang stated he had one contact with Mr. Mone at a meeting which was just an introduction and he received an email subsequently to meet but he did not meet with him or responded to the email nor did he serve on the board of the Asian Youth Center alongside Mr. Mone. Mayor Pro Tem Chan stated he received an email, from a person at OneLegacy last year around November or December, requesting a meeting and he replied back to that email stating that he would rather not meet, stay neutral, and would like to know more about the matter. He also stated he received a phone call from the same person stating the same information as the email, and he reported the phone call and email to the City Manager, therefore, he has not meet with the individual and does not know who the person is. Mayor Lam stated that he had a thirty minute meeting with Doctor Kenneth Sim, when he came to the city, during that meeting Dr. Sim talked about OneLegacy and expressed his appreciation on OneLegacy coming to town, at that time Mayor Lam just listened to his comments but did not make any decisions on the matter; (4) opened the public hearing at 7:31 p.m.; (5) received applicant testimony; (6) received appellant testimony; (7) received public testimony; (8) closed the public hearing at 8:50p.m.; (9) after considering the evidence adopted Resolution No. 12011 upholding the appeal and reversing Planning Commission Resolution No. 06-18 for the reasons set forth in the Supplemental Staff Report.

Motion: Moved by Council Member Real Sebastian and seconded by Council Member Ing, motion carried by the following vote:

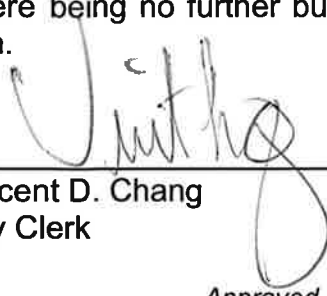
Ayes:	Council Members:	Real Sebastian, Ing, Liang, Chan, Lam
Noes:	Council Members:	None
Absent:	Council Members:	None
Abstain:	Council Members:	None

Resolution No. 12011, entitled:

A RESOLUTION GRANTING AN APPEAL BY REVERSING A PLANNING COMMISSION DECISION TO ISSUE A CONDITIONAL USE PERMIT (CUP-18-02) ALLOWING A HOSPITAL USE AT 1977 SATURN STREET

ADJOURNMENT

There being no further business for consideration, the meeting was adjourned at 9:23 p.m.



Vincent D. Chang
City Clerk

Approved on July 18, 2018 at the Regular City Council Meeting